

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

F I N A L M I N U T E S

MEETING OF:

**STATE BOARD OF OPTOMETRY
VIA VIDEOCONFERENCE**

TIME: 10:30 A.M.

Thursday, May 13, 2021

1 ***

2 State Board of Optometry

3 May 13, 2021

4 ***

5 [Pursuant to Section 708(a)(5) of the Sunshine Act, at
6 10:15 a.m. the Board entered into Executive Session
7 with Ariel O'Malley, Esquire, Board Counsel, for the
8 purpose of conducting quasi-judicial deliberations and
9 to receive the advice of Board Counsel. The Board
10 began open session at 10:30 a.m.]

11 ***

12 [Theodore Stauffer, Executive Secretary, Bureau of
13 Professional and Occupational Affairs, reminded
14 everyone that the meeting is being recorded, and those
15 who remain on the line are giving their consent to
16 being recorded.]

17 ***

18 The regularly scheduled meeting of the State
19 Board of Optometry was held on Thursday, May 13, 2021.
20 Luanne K. Chubb, O.D., F.A.A.O., Chairperson, called
21 the meeting to order at 10:30 a.m.

22 ***

23 Roll Call

24 [Chairperson Chubb requested Ms. Stuckey take a roll
25 call of Board members.]

1 [The motion carried unanimously.]

2

3 Appointment - Bureau of Finance and Operations Annual
4 Budget Presentation

5 [Kimberly Adams, Chief of Fiscal Management, Bureau of
6 Finance and Operations, Department of State, addressed
7 licensee population from a revenue standpoint. She
8 noted a licensee population of 2,673 members in 2016
9 with an increase of 24 members in 2018 to 2,697 and
10 2,720 currently. She noted an additional 4 members as
11 of this morning, giving a current licensee population
12 of 2,724.

13 Ms. Adams noted revenue by source. She reviewed
14 categories and actual revenue for FY 2018-2019 and FY
15 2019-2020, noting a biennial total. She noted 97.1%
16 of revenue is coming from renewals and applications.
17 She noted the last fee increase was in 1988 and all
18 classes are currently paying \$135 biennially.

19 Ms. Adams provided a categorical breakdown of
20 expenses for FY 2018-2019 and FY 2019-2020 with a
21 current budget for FY 2020-2021 and expenses as of May
22 10, 2021. She stated the current budget for FY 2020-
23 2021 is adequate.

24 Ms. Adams reviewed revenues and expenses, noting a
25 current FY 2021-2022 budget. She mentioned a drop

1 each year from the bottom line due to current expenses
2 exceeding revenue. She noted FY 2018-2019 and FY
3 2019-2020 revenue and expenses and recommended a
4 possible fee increase.

5 Dr. Wilcox commented that the Board looked at a
6 fee increase many years ago after noticing a drop was
7 going to continue into 2026. She requested current
8 comparable fees from other boards.

9 Ms. Adams noted dentists are at \$263 biennially.

10 Dr. Wilcox questioned whether there is a number
11 associated with the doctors that were investigated or
12 prosecuted as far as expenses.

13 Mr. Jarabeck offered to present the prosecution
14 numbers Ms. DeLaurentis provided for 2020 later in the
15 meeting.

16 Chairperson Chubb mentioned the Board requested
17 clarification when Ms. DeLaurentis provided
18 information last year, but the pandemic interrupted
19 things as far as being able to get information.

20 Dr. Urbanski commented that the Board had
21 discussions regarding a fee increase not very long ago
22 but were discouraged from doing a fee increase and
23 questioned what the recommended remaining balance
24 would be for the Board.

25 Ms. Adams explained that Finance would like to see

1 enough to at least cover a biennial expense period.
2 She noted fee increases take a couple years to become
3 effective, due to the regulatory process, and the
4 earliest the Board would see anything would be 2022,
5 possibly later.

6 Chairperson Chubb questioned whether the Bureau of
7 Finance and Operations has a method to calculate a
8 reasonable fee and way to raise prices in comparison
9 to the licensure fees in surrounding states.

10 Ms. Adams offered to provide fee increase numbers
11 and a look at the cost of processing applications.
12 She will provide the packet to the Board administrator
13 two weeks prior to the August meeting.

14 Dr. Urbanski suggested including some trends on
15 the expense side in the packet to help with
16 determining the amount of the fee increase.

17 Ms. Adams offered to include an expense breakdown
18 over multiple years.

19 Mr. Jarabeck provided documentation from the
20 prosecution presentation by Ms. DeLaurentis in
21 February 2020.

22 Ms. Adams reviewed Board member expenses, noting
23 FY 2018-2019 expenses and FY 2019-2020 expenses with
24 the current budget for FY 2020-2021. She mentioned
25 the figure for the current expenses. She noted the

1 \$11,000 budget is adequate and was carried to FY 2021-
2 2022. She stated any remaining balance would stay in
3 the restricted account for the Board's use.]

4 ***

5 Approval of Minutes

6 CHAIRPERSON CHUBB:

7 Has everyone had time to read over the
8 minutes? Are there any additions or
9 modifications we want to make to the
10 minutes?

11 [The Board discussed corrections to the minutes.]

12 CHAIRPERSON CHUBB:

13 Any other discussion about the minutes?
14 Hearing none.

15 DR. URBANSKI:

16 I move to accept the minutes as edited
17 with suggestions from Dr. Wilcox.

18 DR. GODFREY:

19 I second that motion.

20 CHAIRPERSON CHUBB:

21 Any other further discussion? Hearing
22 none.

23 I'd like to take a vote. All those
24 in favor to accept the minutes as
25 written with the modifications? Any

1 opposed? Any abstentions?

2 [The motion carried unanimously.]

3 ***

4 Report of Board Prosecutor - No Report

5 ***

6 Report of Commissioner - No Report

7 [Theodore Stauffer, Executive Secretary, Bureau of
8 Professional and Occupational Affairs, on behalf of K.
9 Kalonji Johnson, Commissioner, had no official report
10 but offered to take any questions or concerns to the
11 Commissioner.]

12 ***

13 Report of Board Counsel

14 [Ariel O'Malley, Esquire, Board Counsel, reported
15 numerous bills introduced since the last Board
16 meeting. She addressed House Bill 325, which would
17 permit licensees to seek an advisory opinion. She
18 noted the bill has passed in the House, entered the
19 Senate March 25, and is currently in one of their
20 committees.

21 Ms. O'Malley noted House Bill 468 would provide
22 for student loan forgiveness of 50%, up to \$200,000,
23 if an optometrist agrees to work full-time in the
24 Commonwealth for three consecutive years.

25 Ms. O'Malley noted House Bill 642 would require

1 the Board to promulgate regulations within two years
2 of the effective date to regulate telemedicine and
3 make that a permanent facet in the practice in
4 Pennsylvania.

5 Ms. O'Malley addressed House Bill 681 regarding
6 prohibiting enforcement of covenants not to compete in
7 health care practitioner employment agreements.

8 Ms. O'Malley noted House Bill 855 would allow
9 applicants to request paper applications and is
10 currently sitting in the Senate.

11 Ms. O'Malley noted House Bill 1094 would prohibit
12 licensees from employing unauthorized aliens to
13 perform a function for, or in connection with, the
14 profession for which the individual is licensed.

15 Ms. O'Malley addressed Senate Bill 554, requiring
16 the Board to post its agenda on their website at least
17 24 hours in advance and require the agendas be
18 available at the meeting, which the Board already
19 does. She mentioned House Bill 554 would also limit
20 the Board's ability to make amendments to the agenda
21 at the meeting with very few exceptions.

22 Ms. O'Malley noted House Bill 1176 would require
23 each person applying for a license or certificate to
24 complete training regarding implicit bias and cultural
25 competencies.

1 Dr. Boyer questioned whether House Bill 1176
2 pertains to new licensees or something current
3 licensees would undergo.

4 Ms. O'Malley mentioned having the same question
5 when she read it and is hoping that is clarified as
6 the bill progresses. She stated the bill is currently
7 in the House Professional Licensure Committee.

8 Dr. Wilcox requested more information on House
9 Bill 468 regarding how student loan forgiveness works.

10 Ms. O'Malley noted being uncertain as to how they
11 are going to make that happen and whose responsibility
12 it would be to pay it. She mentioned that something
13 similar was introduced in the last session and did not
14 succeed.

15 Dr. Boyer expressed concern with House Bill 681
16 under Section 5 regarding the duty of an employer to
17 provide so much information.

18 Ms. O'Malley commented that the employer has to
19 provide patient information to the optometrist who is
20 departing, where a patient may want to leave with that
21 optometrist and the entity would have to release those
22 medical records.

23 Mr. Farrell reported a subsequent amendment that
24 deleted the paragraph and replaced it with a similar
25 paragraph, where information must be provided to

1 patients regarding how to request the transfer of
2 their medical records to the departing health care
3 practitioner.

4 Dr. Godfrey questioned what oversight or function
5 would each individual Board have over the
6 implementation of House Bill 1176 regarding cultural
7 competence.

8 Ms. O'Malley stated the Board would not
9 necessarily have oversight of the content of the
10 education so much as the ability to decide how it is
11 going to be utilized in conjunction with the
12 continuing education regulations.

13 Dr. Godfrey questioned whether the Board would
14 have the ability to expand the number of credit hours
15 because of the amount of continuing education like
16 cultural competence that is not directed at eye care.

17 Ms. O'Malley suggested the Board would have the
18 authority to determine if the cultural competence
19 hours count towards the 30 hours of optometric
20 continuing education.

21 Ms. O'Malley referred to House Bill 642, stating
22 Mr. Farrell was correct regarding the language about
23 giving the patients records over. She noted the
24 amendment and will provide an updated version on the
25 next agenda.

1 Ms. O'Malley informed the Board that the Bureau
2 of Professional and Occupational Affairs received
3 reports of persons pretending to be from one of the
4 health-related boards contacting licensees by phone
5 and mail about the status of their licenses.

6 Ms. O'Malley provided reminders from the Bureau
7 of Professional and Occupational Affairs (BPOA)
8 concerning contact and personal information.

9 Ms. O'Malley mentioned that those who were the
10 subject of an investigation or disciplinary action
11 would receive notice by certified mail and/or personal
12 service. She noted a document on the Board's website
13 and Department of State's website. She was hopeful
14 that associations would help spread the word.

15 Joseph A. Ricci, Esquire, Executive Director,
16 Pennsylvania Optometric Association, commented that
17 the Pennsylvania Optometric Association (POA) has
18 alerted members of the scam. He mentioned that other
19 state associations sent similar messages to their
20 members as well.

21 Ms. O'Malley addressed the waiver implemented on
22 March 22, 2021, allowing various licensees to perform
23 COVID-19 vaccinations, including individuals licensed
24 under the State Board of Optometry, for the Board's
25 review.

1 Ms. O'Malley addressed the Centers for Disease
2 Control and Prevention (CDC) training modules. She
3 stated it was up to the Board whether to accept that
4 as continuing education. She noted it was not
5 traditionally something that was part of the practice
6 and why the training modules must be reviewed and the
7 course taken to be able to perform the vaccinations.]

8 ***

9 Report of Board Chair

10 [Luanne K. Chubb, O.D., F.A.A.O., Chairperson, offered
11 no official report. She encouraged everyone to be
12 aware of when their term and until successor qualifies
13 (USQ) expires so open positions can be filled.]

14 ***

15 Report of Regulatory Counsel

16 [Ariel O'Malley, Esquire, Board Counsel, reported the
17 General Revisions package was considered and approved
18 by the Independent Regulatory Review Commission in
19 April and also approved by the Office of Attorney
20 General. She stated the General Revisions would be
21 published in the *Pennsylvania Bulletin* and then become
22 official.

23 Ms. O'Malley addressed 16A-5218 regarding
24 licensure by endorsement. She noted the Board
25 approved it as proposed but noted a few revisions.

1 She referred to § 23.27a(a)(2)(iii) and is requesting
2 the Board provide a time frame to achieve a passing
3 score on the National Board of Examiners in Optometry
4 (NBEO) Clinical Skills Assessment Examination.

5 Dr. Urbanski noted being comfortable with two
6 years because it was more difficult to maintain
7 competency the longer an individual waits.

8 Chairperson Chubb mentioned the importance of
9 ensuring members are current in their ability with
10 patient care.

11 Dr. Umlauf agreed with two years and maybe having
12 exceptions to be considered for the Board's review and
13 provide guidelines for getting a license reinstated.

14 Chairperson Chubb mentioned that two other
15 options were available and providing the ability in
16 number one to have practiced two of the five preceding
17 years is a very generous range. She noted 30 hours of
18 continuing education was not even 1 hour per week
19 during the preceding 24 months and personally leans
20 toward two years.

21 Dr. Becker noted the experience of practicing the
22 last two of five years requires a time frame.

23 Dr. Chubb agreed with the need to define the word
24 actively engaged in the practice.

25 Dr. Wilcox disagreed and believed four years was

1 reasonable.]

2 CHAIRPERSON CHUBB:

3 Is there a motion?

4 DR. BECKER:

5 I'll make a motion that we make it four
6 years.

7 CHAIRPERSON CHUBB:

8 Is there a second?

9 DR. WILCOX:

10 I'll second that one.

11 CHAIRPERSON CHUBB:

12 Is there a discussion? All in favor
13 signify by saying aye. Opposed?
14 Abstained? Hearing none. The motion is
15 denied.

16 [The motion is denied. Dr. Chubb, Dr. Godfrey, Dr.
17 Boyer, Dr. Umlauf, and Dr. Urbanski opposed the
18 motion.]

19 ***

20 DR. URBANSKI:

21 I'll make a motion that we set up the
22 time frame as two years for the
23 licensing cycle.

24 CHAIRPERSON CHUBB:

25 Is there a second?

1 DR. GODFREY:

2 I second.

3 CHAIRPERSON CHUBB:

4 Any discussion? Hearing none. Those in
5 favor of requiring passage of the exam
6 within two years? Opposed? Abstained?

7 The motion carries for two years.

8 [The motion carried. Dr. Wilcox and Dr. Becker
9 opposed the motion.]

10 ***

11 MS. O'MALLEY:

12 With that decision being made, I would
13 ask for a motion for Counsel to
14 promulgate your regulation as proposed
15 with the inclusion of a two-year time
16 frame on passing the skills assessment.

17 CHAIRPERSON CHUBB:

18 I would like to make a motion for
19 counsel to promulgate those regulations
20 as proposed, including the two-year time
21 frame for the regulation.

22 Is there a second?

23 DR. BOYER:

24 I second that.

25 CHAIRPERSON CHUBB:

1 currently being processed within a couple of days of
2 submission of the application.]

3

4 New Business

5 [Luanne K. Chubb, O.D., F.A.A.O., Chairperson,
6 referred to correspondence received from Justin
7 Rienzo, Director, Key Accounts and Associations at
8 Allergan, discussing a new use for a medication that
9 is already on the formulary. She noted Mr. Rienzo
10 asked whether there would be a delay in the product
11 for use once pilocarpine is approved for a new use.

12

13 Ms. O'Malley noted that the Board gained control
14 of the formulary without the oversight of the
15 Department of Health with the passage of Act 99 last
16 year. She mentioned the Board determined at a prior
17 Board meeting to vote and not have the committee make
18 the decision on new additions to the formulary.

19 Ms. O'Malley noted the Board did not discuss how
20 to treat items that were already on the formulary but
21 now maybe fall into an additional category.

22 Dr. Urbanski commented that pilocarpine is a drug
23 that has been around for years, and optometrists have
24 used it for 19 years since the glaucoma law was
25 passed. He did not see any reason why it would need

1 to be reapproved or put under a new category, noting
2 they are just taking advantage of one of the well-
3 known side effects of the medication to treat another
4 condition.

5 Dr. Urbanski commented that categories were
6 developed for ease of use, not that they were only
7 approving them for a specific category.

8 Ms. O'Malley reported no need for a motion
9 because it is something the Board has been doing the
10 entire time.]

11 ***

12 Miscellaneous

13 [Luanne K. Chubb, O.D., F.A.A.O., Chairperson, noted
14 the proposed 2022 Board meeting dates.

15 Chairperson Chubb referred to correspondence from
16 the Association of Schools and Colleges of Optometry
17 (ASCO) for the Board's review.

18 Chairperson Chubb suggested the Board see where
19 House Bill 1176 leads regarding continuing education
20 for regulations and guidance.

21 Dr. Urbanski requested Chairperson Chubb make a
22 recommendation to the Board Administrator to reply to
23 ASCO letting them know there is a piece of legislation
24 within the House in Pennsylvania addressing the issue,
25 and the Board would let the representatives decide on

1 that legislation and take no further action at this
2 time.

3 Ms. Stuckey noted she could certainly do that
4 with Ms. O'Malley's assistance.

5 Dr. Godfrey questioned what the Board would have
6 to do to independently implement this if House Bill
7 1176 does not pass.

8 Ms. O'Malley explained that there would have to
9 be some kind of regulation or maybe a legislative
10 initiative to have the language changed to include
11 this type of education because it is really general.

12 Dr. Urbanski addressed the topic of culture
13 competency, noting it to be nothing new, where doctors
14 are free to take continuing education and it would
15 fall under the public health umbrella. He commented
16 that ASCO are just asking the Board to mandate it,
17 which would require regulatory, if not a statutory
18 change. He noted not seeing any need to move forward
19 with any specific action and allow the legislature to
20 do their job.

21 Chairperson Chubb commented that there may be
22 other state employers, whether people are working
23 independently or in group practices or for businesses,
24 that may also be incorporating it into their education
25 for their own internal people.]

1 CHAIRPERSON CHUBB:

2 We'll consider our State Board meeting
3 for May 13 adjourned.

4 ***

5 [There being no further business, the State Board of
6 Optometry Meeting adjourned at 11:57 a.m.]

7 ***

8 [An Optometry Board Regulatory Committee Meeting was
9 scheduled immediately following the regular Board
10 meeting.]

11 ***

12

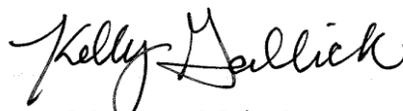
13 CERTIFICATE

14

15 I hereby certify that the foregoing summary
16 minutes of the State Board of Optometry meeting, was
17 reduced to writing by me or under my supervision, and
18 that the minutes accurately summarize the substance of
19 the State Board of Optometry meeting.

20

21



22

Kelly Gallick,

23

Minute Clerk

24

Sargent's Court Reporting

25

Service, Inc.

26

STATE BOARD OF OPTOMETRY
REFERENCE INDEX

May 13, 2021

	TIME	AGENDA
1		
2		
3		
4		
5		
6		
7		
8	10:15	Executive Session
9	10:30	Return to Open Session
10		
11	10:30	Official Call to Order
12		
13	10:30	Roll Call/Introduction of Audience
14		
15	10:34	Appointment - Bureau of Finance and
16		Operations Annual Budget Presentation
17		
18	10:57	Approval of Minutes
19		
20	11:03	Report of Board Counsel
21		
22	11:24	Report of Board Chair
23		
24	11:25	Report of Regulatory Counsel
25		
26	11:36	Report of Board Administrator
27		
28	11:41	Miscellaneous
29		
30	11:55	Public Comment Period
31		
32	11:56	Miscellaneous (Continued)
33		
34	11:57	Adjournment
35		
36		
37		
38		
39		
40		
41		
42		
43		
44		
45		
46		
47		
48		
49		
50		